

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**MANSOUR MOHAMMAD, #Y15873,)
Plaintiff,)
vs.) Case No. 3:19-cv-01331-SMY
JACQUELINE LASHBROOK, et al.,)
Defendants.)**

ORDER

This matter is before the Court on Defendant James Claycomb's Motion to Set Aside Default (Doc. 55) and Plaintiff's Motion for Default Judgment (Doc. 54). Claycomb executed a Waiver of Service of Summons and his responsive pleading was due May 17, 2021. (Doc. 36). He failed to move, answer, or otherwise plead in response to the Second Amended Complaint by that deadline. Consequently, a Clerk's Entry of Default was docketed on July 23, 2021. (Doc. 44). "A party seeking to vacate an entry of default prior to the entry of judgment must show: (1) good cause for the default; (2) quick action to correct it; and (3) a meritorious defense to the complaint." *Cracco v. Vitran Express, Inc.*, 559 F.3d 625, 630–31 (7th Cir.2009) (citations omitted); Fed. R. Civ. P. 55(c).

According to Claycomb's motion, he is on non-occupational disability from Menard Correctional Center. He was diagnosed with ALS on November 17, 2020, and his diagnosis has severely limited his energy level. He asserts that he was under the impression he had already requested representation for this case because he is being represented by the Attorney General's Office in other cases. Once he was made aware of the default, he took quick action to correct it. Additionally, he asserts a meritorious defense to Plaintiff's claims and several affirmative defenses.

Consistent with this Court's preference for adjudication on the merits and the exceptional circumstances surrounding Claycomb's failure to file a timely Answer to the Second Amended Complaint, the Motion to Set Aside Default (Doc. 55) is **GRANTED**, the Clerk's Entry of Default (Doc. 44) is **VACATED**, and Plaintiff's Motion for a Default Judgment is **DENIED**. Defendant Claycomb shall file a responsive pleading within 7 days of the date of this Order.

IT IS SO ORDERED.

DATED: August 16, 2021

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge